

L3143

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Licensed)
APPLICATION 11276, L3143)
HAROLD & ANNA BELLE BROWN,)
Licensees)

ORDER: WR 79-5

Source: Wadsworth Canal

County: Sutter

ORDER AMENDING LICENSE

BY THE BOARD:

On April 14, 1977, a petition was filed by Harold Brown and Anna Belle Brown to enlarge the gross area of the place of use and add a point of diversion under licensed Application 11276. The petition was protested by (1) Gilbert D. Williamson, (2) Vesper E. and Phyllis Pack Kellogg, (3) Lloyd F. Clark, (4) Estate of Ora P. Epperson, and (5) Sutter Extension Water District.

On March 23, 1978, a hearing was held before the State Water Resources Control Board to determine whether the petition for change should be approved and, if so, whether any conditions should be imposed. Petitioner and Protestants numbered (2), (4) and (5) having appeared at the hearing, evidence having been presented at the hearing and having been duly considered, the Board finds as follows:

1. Licensed Application 11276 currently allows three cubic feet per second (cfs) by direct diversion from April 1 to October 1 for irrigation of 80 acres.

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2. The Petitioners seek to add a point of diversion approximately 8,500 feet upstream from the authorized point which will be just upstream of Weir No. 4 (Wadsworth Weir) on Wadsworth Canal. They also seek to enlarge the place of use to a gross area of 432 acres with the net area remaining at 80 acres.

3. A question of access from the petitioned point of diversion to petitioned place of use was brought out at the hearing. At the time of the hearing the petitioner and one of the protestants were in litigation concerning right of access. Right of access is not within the jurisdiction of the Board.

4. Certain lawful users could be injured if the licensees are permitted to divert when water is not spilling at Wadsworth Weir.

It is concluded from the foregoing findings that the petition for change should be granted with certain conditions.

NOW, THEREFORE IT IS ORDERED that:

1. The place of use and point of diversion under licensed Application 11276 be changed to the following:

a. Place of Use:

432 acres consisting of 80 acres within E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 20, 204 acres within SW $\frac{1}{4}$ of Section 15 and SE $\frac{1}{4}$ of Section 16 and 148 acres within SW $\frac{1}{4}$ of Section 21 and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 21, T15N, R2E all within MDB&M as shown on map filed with the Board. No more than 80 acres within the place of use may be irrigated in any one year.

b. Point of Diversion:

(1) Added point - North 1600 feet and east 200 feet from center of Section 15, T15N, R2E, MDB&M, being within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 15.

(2) Original point - South 214 feet and east 1333 feet from center of Section 21, T15N, R2E, MDB&M, being within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 21.

2. The licensees shall be allowed to divert at the added point of diversion only when water is spilling at Wadsworth Weir.

3. The granting of the petition shall in no way be construed as conferring upon the licensees right of access to the added point of diversion or right of access for the conveyance system from that point to the place of use.

Dated: April 19, 1979

/s/ W. DON MAUGHAN
W. Don Maughan, Chairman

/s/ WILLIAM J. MILLER
William J. Miller, Member

/s/ L. L. MITCHELL
L. L. Mitchell, Member

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of License 3143) Issued on Application 11276,) HAROLD and ANNA BELLE BROWN,) Licensees.)	Order: WR 74-35 Source: Wadsworth Canal County: Sutter
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ORDER ON RECONSIDERATION OF ORDER WR 74-6

BY THE BOARD:

This order is being made to conform the Board's records with the actual use of water. By so doing we do not countenance the failure of the licensees and their predecessors to advise the Board immediately of changes in ownership of lands covered by the license as required by Section 766, Article 18, Subchapter 2, Chapter 3, Title 23, California Administrative Code, and to timely petition the Board for permission to change the place of use covered by the license as required by Water Code Section 1701. The public has a right to rely on the Board's records and to a great extent the Board relies upon the holders of rights that it administers for information to keep the Board's records current. Any further failure to place the water to beneficial use in conformity with the license may result in revocation of such license in accordance with Water Code Section 1675.

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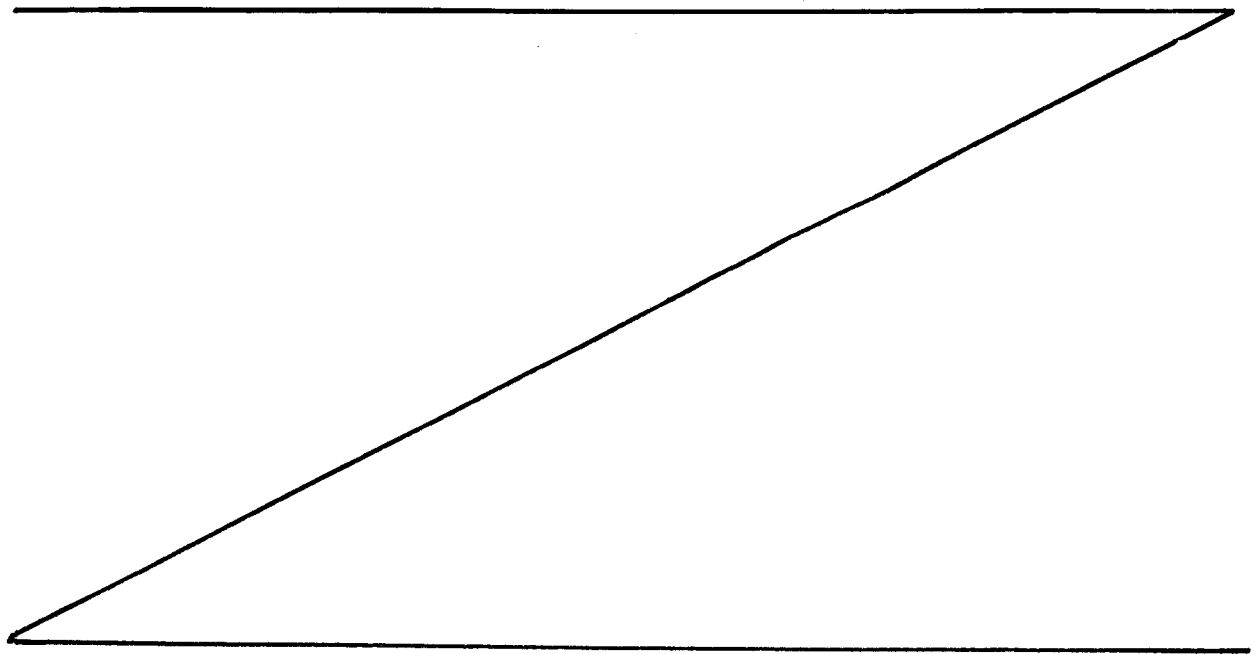
License 3143 was issued on March 14, 1951, confirming in A. H. Muns the rights acquired by beneficial use to three cubic feet per second (cfs) for irrigation of 160 acres in $E\frac{1}{2}$ of $E\frac{1}{2}$, Section 20 and 80 acres in $N\frac{1}{2}$ of $NW\frac{1}{4}$, Section 21, T15N, R2E, MDB&M. Said license was filed in the office of the Recorder of Sutter County on March 17, 1951. On November 27, 1972, the Board's records were changed to show Thomas John and Marnee L. Crowhurst as owners of the license based on information that they had succeeded to ownership of the place of use.

On February 21, 1974, the State Water Resources Control Board adopted Order WR 74-6 which limited diversion under License 3143 to one cfs; limited the place of use to the $E\frac{1}{2}$ of $SE\frac{1}{4}$ of Section 20, T15N, R2E, MDB&M; and changed the Board's records to show Harold and Anna Belle Brown (licensees) as owners of the license.

On March 16, 1974, the licensees petitioned the Board to reconsider Order WR 74-6 with respect to the reduction of the rate of diversion under the license from three cfs to one cfs. Good cause appearing, the Board granted the licensees' petition for reconsideration on April 18, 1974.

At the hearing on July 18, 1973, which preceded the adoption of Order WR 74-6, it was first brought to the Board's attention that the licensees were owners of 80 acres of land covered by License 3143. The Board had no information as to the quantities of water actually used by the licensees when

Order WR 74-6 was adopted. Since the filing of the licensees' petition for reconsideration, the Board's staff made an investigation of the licensees' project. Records of the Department of Water Resources covering diversions from the Wadsworth Canal show that the licensees highest duty of water was one cfs per 23.2 acres on the basis of an average continuous diversion during May 1968 (DWR Bulletin No. 130-70, Volume II, Northeastern California). Based on this duty, the rate of continuous average 30-day diversion on the licensees' 80 acres is 3.45 cfs. From an analysis of diversions from the Wadsworth Canal adjacent to the licensees during the years 1968-1970 it appears that the use of three cfs on 80 acres is within the application rates used for the type of crops and soil within the general area of the licensees' diversion.



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NOW, THEREFORE, IT IS ORDERED that the portion of Order 74-6 which limited diversion under License 3143 to one cubic foot per second be set aside so that the authorized rate of diversion remains at three cubic feet per second. In all other respects said order remains unchanged.

Dated: November 21, 1974

W W Adams
W. W. Adams, Chairman

Ronald B Robie
Ronald B. Robie, Vice Chairman

Roy E Dodson
Roy E. Dodson, Member

Mrs. Carl H. Auer
Mrs. Carl H. (Jean) Auer, Member

W. Don Maughan
W. Don Maughan, Member

In the Matter of License 3143,
Application 11276,
THOMAS JOHN AND MARNEE L. CROWHURST
Licensees.

1. Permit 6602 was issued in the matter of Application 11276 on August 23, 1946, to A. H. Muns for the appropriation of 3 cubic feet per second (cfs) from about April 1 to about November 1 of each year from Wadsworth Canal in Sutter County for irrigation purposes.

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE, BUREAU OF COMMERCE

OFFICE OF THE SECRETARY OF COMMERCE

WASHINGTON, D. C.

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2. License 3143 was issued on March 14, 1951, pursuant to said permit, confirming in A. H. Muns the rights acquired by beneficial use to 3 cfs for irrigation of 160 acres in E $\frac{1}{2}$ of E $\frac{1}{2}$, Section 20 and 80 acres in N $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 21, T15N, R2E, MDB&M. Said license was filed in the office of the Recorder of Sutter County on March 17, 1951. On November 27, 1972, the Board's records were changed to show Thomas John and Marnee L. Crowhurst as owners of the license based on information that they had succeeded to ownership of the place of use.

3. The licensees have lost a right-of-way across another person's land which was necessary for access to the Wadsworth Canal and have not used water from the canal since 1966 (RT 2).

4. The licensees own only 160 acres of the place of use described in the license (RT 6). The remaining 80 acres, which is the E $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 20, T15N, R2E, MDB&M, have been owned by Harold D. and Anna Belle Brown since April 13, 1971. They have used water from Wadsworth Canal in every year since the date of their purchase (letter of October 12, 1973 to the Board from Harold D. and Anna Belle Brown; files Application 11276). Albert and Margaret Thomason, who sold the 80 acres to the Browns, acquired the property in the year 1955 from A. H. Muns and irrigated it from Wadsworth Canal during the time of their ownership (letter of October 17, 1973 from Albert and Margaret Thomason to Board; files Application 11276).

It is concluded from the foregoing findings that License 3143 should be amended to limit diversion of water to 1 cfs to be used on the E $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 20, T15N, R2E, MDB&M, and that the Board's records should be changed to show Harold and Anna Belle Brown as owners of the license.

IT IS SO ORDERED.

Dated: January 21, 1974

We Concur:

Ronald B. Robie
Ronald B. Robie
Vice Chairman

W. W. Adams
W. W. Adams, Chairman

Roy E. Dodson
Roy E. Dodson, Member

Mrs. Carl H. Auer
Mrs. Carl H. (Jean) Auer, Member

W. Don Maughan
W. Don Maughan, Member



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 11276

PERMIT 6602

LICENSE 3143

THIS IS TO CERTIFY, That A. H. Muns
P.O. Box 92, Sutter, California

has made proof as of May 18, 1950,
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
Wadsworth Canal in Sutter County
tributary to Sutter By-pass

for the purpose of irrigation use

under Permit 6602 of the Department of Public Works and that said right to the use of said water has
been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works
and the terms of the said permit; that the priority of the right herein confirmed dates from February 5, 1946;
and

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed three (3) cubic feet
per second to be diverted from about April 1 to about October 1 of each
year.

The equivalent of such continuous flow allowance for any thirty
day period may be diverted in a shorter time if there be no interference
with ^{other} vested rights.

The point of diversion of such water is located South two hundred fourteen (214)
feet and East one thousand three hundred thirty-three (1333) feet
from center of Section 21, T15N, R2E, M.D.B. & M., being within
NE 1/4 of SE 1/4 of said Section 21.

A description of the lands or the place where such water is put to beneficial use is as follows: 240 acres
consisting of 160 acres in E 1/2 of E 1/2 of Section 20 and 80 acres in
N 1/2 of NW 1/4 of Section 21, T15N, R2E, M.D.B. & M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance
with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or
unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from
time to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion
herein specified and to the lands or place of use herein described.

NOV 30 '50 L.C.S.

DEC 4 '50 W.R.G.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

*Witness my hand and the seal of the Department of Public
Works of the State of California, this
day of MAR 14 1951, 19*

[SEAL]

EDWARD HYATT, *State Engineer*

LICENSE

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO

MAR 14 1951

DATED

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STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 11276

PERMIT 6602

LICENSE 3143

THIS IS TO CERTIFY, That **A. H. Muns**
P. O. Box 92, Sutter, California

Notice of Change (Over)

has made proof as of **May 18, 1950,**
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
Wadsworth Canal in Sutter County

tributary to **Sutter By-pass**

for the purpose of **irrigation use**

under Permit **6602**

of the Department of Public Works and that said right to the use of said water has
been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works
and the terms of the said permit; that the priority of the right herein confirmed dates from **February 5, 1946;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed **three (3) cubic feet per**
second to be diverted from about April 1 to about October 1 of each year.

The equivalent of such continuous flow allowance for any thirty day period
may be diverted in a shorter time if there be no interference with other vested
rights.

The point of diversion of such water is located **South two hundred fourteen (214) feet**
and East one thousand three hundred thirty-three (1333) feet from center of
Section 21, T 15 N, R 2 E, M.D.B.&M., being within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 21.

A description of the lands or the place where such water is put to beneficial use is as follows: **240 acres**
consisting of 160 acres in E $\frac{1}{2}$ of E $\frac{1}{2}$ of Section 20 and 80 acres in N $\frac{1}{2}$ of NW $\frac{1}{4}$ of
Section 21, T 15 N, R 2 E, M.D.B.&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance
with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or
unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from
time to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion
herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 14th
day of March, 1951

A. D. Edmonston
A. D. EDMONSTON,
State Engineer

9/25/69 - Int. of A. H. Muns changed
to Estate of Arley H. Muns.

H-27-D RECEIVED NOTICE OF ASSIGNMENT TO Thomas J. & Maeneel L
Crounchurst

2-21-74 Records changed to show Harold and
Anna Belle Brown as owners

LICENSE 3143

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO A. H. Muns

DATED MAR 14 1951

92121 6-48 2M ① STATE PRINTING OFFICE